

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MIRKA LEWIS,

Plaintiff,

V.

VAIL RESORTS, INC., and JOHN DOES
1-3,

Defendants.

CASE NO. 2:23-cv-00812-RSL

ORDER COMPELLING RESPONSE
TO INTERROGATORY NO. 8

This matter comes before the Court on “Plaintiff’s Motion to Compel Discovery.” Dkt. # 19. Plaintiff alleges that she was working as a ski lift operator at Stevens Pass Ski Resort in January 2022 when she fell from a chair lift platform and was seriously injured. Her employer, VR NW Holdings, Inc., paid her worker’s compensation claim. Under the Washington Industrial Insurance Act (“IIA”) workers injured in the course of employment are entitled to compensation “in lieu of any and all rights of action whatsoever against any person whomsoever.” RCW 51.32.010. Thus, plaintiff’s recovery against VR NW Holdings, Inc., is limited to what the worker’s compensation program provides. If, however, a third person not in the same employ as the injured worker is also responsible for the accident, the IIA allows the worker to recover damages from that third person. RCW 51.24.030(1). One of the first questions that must be resolved when determining whether a person is immune from liability under the IAA is whether the alleged tortfeasor

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1 has the same employer as the injured worker. *See Entila v. Cook*, 190 Wn. App. 477, 481
 2 (2015) (citing *Evans v. Thompson*, 124 Wn.2d 435, 444 (1994)).

3 Plaintiff alleges that defendant Vail Resorts, Inc., is a holding company that
 4 manages and oversees all skiing operations at Vail Resorts properties throughout the
 5 United States, including the Stevens Pass Resort. Vail Resorts, Inc., operates through
 6 various subsidiaries and employees including, but not limited to, VR NW Holdings, Inc.
 7 Plaintiff alleges that one or more of these subsidiaries/employees was responsible for
 8 designing, producing, and providing safety training to the workers at Stevens Pass Resort
 9 and/or for inspecting, maintaining, or repairing the ski lift on which plaintiff was injured.
 10 Plaintiff has identified three individuals whom she believes either exert supervisory control
 11 over the operations at Stevens Pass Resort (David Shapiro and Bill Rock) or lead ski lift
 12 safety efforts at Vail Resorts in the western United States, including Stevens Pass Resort
 13 (Kip McCarthy). As the first step in determining whether these individuals are third parties
 14 subject to suit or co-employees who enjoy immunity under the IIA, plaintiff served
 15 Interrogatory No. 8 requesting the identity of the “W-2 employers” of those three
 16 individuals. Vail Resorts, Inc., objected, asserting that the information is irrelevant,
 17 harassing, and vexatious. Plaintiff seeks to compel responses to Interrogatory No. 8 and
 18 requests an extension of the deadline for joining additional parties until 30 days after the
 19 information is provided.

20 Rule 26 of the Federal Rules of Civil Procedure governs the permissible scope of
 21 discovery in federal civil litigation. Rule 26(b) sets forth the threshold requirement that
 22 information sought to be discovered must appear “relevant to any party’s claim or defense
 23 and proportional to the needs of the case....” Relevance under Rule 26(b)(1) is defined
 24 broadly and remains so even after the 2015 amendments of the Federal Rules of Civil
 25 Procedure. *See Garner v. Amazon.com, Inc.*, No. 2:21-cv-0750-RSL, 2023 WL 6038011, at
 26 *1 (W.D. Wash. Sept. 15, 2023); *Insight Psychology & Addiction, Inc. v. City of Costa*

1 *Mesa*, No. 8:20-cv-00504JVS-JDEX, 2021 WL 6102425, at *1 (C.D. Cal. Oct. 29, 2021);
 2 *Snipes v. U.S.*, 334 F.R.D. 548, 550 (N.D. Cal. 2020); *V5 Techs. v. Switch, Ltd.*, 334
 3 F.R.D. 306, 309 (D. Nev. 2019). In determining proportionality, courts consider factors
 4 such as “the importance of the issues at stake in the action, the amount in controversy, the
 5 parties’ relative access to relevant information, the parties’ resources, the importance of the
 6 discovery in resolving the issues, and whether the burden or expense of the proposed
 7 discovery outweighs its likely benefit.” Fed. R. Civ. P. 26(b)(1). The question of whether
 8 the information sought is discoverable depends on a balancing of the requesting party’s
 9 need to obtain all relevant evidence with the responding party’s need for protection from
 10 far-reaching, burdensome, and invasive discovery. The Court will not condone fishing
 11 expeditions, but neither will it adopt a narrow view of relevance. *See Rivera v. NIBCO*,
 12 364 F.3d 1057, 1072 (9th Cir. 2004); *Delgado v. Tarabochia*, No. 2:17-cv-01822-RSL,
 13 2018 WL 2088207, at *2 (W.D. Wash. May 4, 2018).

14 Having reviewed the submissions of the parties and considered the importance of
 15 the information sought and defendant’s claims of harassment and improper motive, the
 16 Court finds that production of the information is warranted. Plaintiff’s motion to compel is
 17 therefore GRANTED. Defendant shall respond to Interrogatory No. 8 within fourteen days
 18 of the date of this Order. The deadline for filing a motion to join additional parties is
 19 extended to January 4, 2024.

21 Dated this 21st day of November, 2023.

22 
 23 Robert S. Lasnik
 24 United States District Judge